

Notice of Allowability

Application No.

10/602,560

Examiner

Zachary C. Tucker

Applicant(s)

DARROW ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 15 June 2005.
 2. ☒ The allowed claim(s) is/are 7, 15, 27 and 33-35.
 3. ☐ The drawings filed on _____ are accepted by the Examiner.
 4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone voicemail message to the examiner from applicants' counsel Lauren L. Steven on 27 July 2005, which was in response to a call placed to her by the examiner earlier in the day

IN THE CLAIMS –

Claims 14 and 26 have been cancelled

IN THE SPECIFICATION –

At page 17, line 22, the following has been deleted:

(<http://www.tua.fi/imt/bioinfo/KinMutBase/>)

end of amendments

Response to Amendment

As requested in the correspondence from applicants filed 15 June 2005 (hereinafter "present amendment"), which is in reply to the Office action mailed 27 April 2005 (hereinafter "previous Office action"), claims 7, 14, 15, 26 and 27 have been amended, new claims 33-35 have been added and claims 5, 9, 10, 16-25 and 28-32 have been cancelled. The attached Examiner's Amendment cancels two additional claims, 14 and 16.

Election/Restrictions

Applicant has voluntarily cancelled claims 16-20 and 28-32, drawn to methods of treating various diseases and a method of identifying a kinase enzyme.

Claim 27, which was withdrawn from consideration in the previous Office action, as not readable on the elected species (although the "Office Action Summary" form PTOL-326 erroneously did not list claim 27 in the "withdrawn from consideration" field), is now rejoined in view of the amendment thereto, which changes the dependency of that claim from 25 (withdrawn claim) to new claim 33.

Claims have been presented which are drawn to a genus of compounds based on the elected species (33-35), and an independent claim drawn to the compound which was the elected species (7).

Status of Claim Rejections - 35 USC § 112

In the previous Office action claims 21-23 and 15 were rejected under 35 U.S.C. 112, first paragraph, for lack of a supporting disclosure enabling the production of the claimed solvates and prodrugs.

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In view of the amendment to claim 15 (changing the dependency thereof), the rejection is hereby withdrawn.

In the previous Office action claims 21-23 and 15 were rejected under 35 U.S.C. 112, second paragraph, for indefiniteness of "crystal forms," recited in the claims.

In view of the amendment to claim 15 (changing the dependency thereof) the rejection is hereby withdrawn.

Claims 21-23 have been cancelled, rendering moot the rejection of those claims.

Status of Claim Rejections - 35 USC § 102

In the previous Office action claims 21-23 were rejected under 35 U.S.C. 102(b) as being anticipated by Cavalier et al, *Bioorganic and Medicinal Chemistry*, vol. 9, pages 1037-1044 (April 2001).

Claims 21-23 have been cancelled, rendering moot the rejection of those claims.

In the previous Office action claims 21-23 and 15 were rejected under 35 U.S.C. 102(a) as being anticipated by WO 01/87854 (Marchand-Brynaert et al).

In view of the amendment to claim 15 (changing the dependency thereof), the rejection is withdrawn.

Status of Claim Rejections - 35 USC § 103

In the previous Office action claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/87854 (Marchand-Brynaert et al).

In view of the amendment to claim 15 (changing the dependency thereof), the rejection is hereby withdrawn.

Allowable Subject Matter

Claims 7, 15, 27 and 32-35 are allowed.

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The following is an examiner's statement of reasons for allowance:

All previously stated rejections have been overcome by amendment or by cancellation of the rejected claims.

Close prior art was cited in the rejections under 35 U.S.C. 102 and 103 in the previous Office action.

Also relevant as prior art are US 6,710,048 (Kuo et al), WO 02/060492 (Burns et al) and Ding et al, *J. Am. Chem. Soc.*, vol. 124(8), pages 1594-1596 (2001) – the latter two cited by applicants in the IDS filed 8 December 2003 – are prior art disclosures of kinases inhibitors based on an aminopyrazine core moiety, but do not suggest or disclose the claimed subject matter.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

All Post-Allowance Correspondence concerning this application must be mailed to:

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or you can fax them to the Office of Patent Publications at 703-872-9306, in order to expedite the handling of such correspondence as amendments under 37 CFR 1.312; information disclosure statements, and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

For information concerning status of correspondence sent after receipt of the Notice of Allowance, please contact the Correspondence Branch at (703) 305-8027. The Notice of Allowance also has an insert containing contact information on other items, including Issue Fees, receipt of formal drawings and the status of the application.

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